

**HSCA Advisory Committee (HAC)  
DNREC's Lewes Field Office  
901 Pilottown Road  
Lewes, DE 19958  
March 6, 2014\*  
Meeting Minutes**

**Attendees:**

**DNREC**

Walt Bryan, WALT BRYAN Enterprises  
Kathy Fox, EA Engineering  
Stephanie Hansen, YCST (TC)  
Ken and Joanne Haynes, Possum Point/SRAP  
David Kane, TetraTech  
Kyle Lampron, Ten Bears  
Dotty LeCates, Possum Point/SRAP  
Mark Parker, Becker Morgan Group  
Fred and Maria Payan, SRAP  
Joe Rossi, Environmental Alliance  
Bill Stephens, STEPHENS Environmental (TC)

Marj Crofts  
Greg DeCowsky (TC)  
Kate Durant (TC)  
Melissa Leckie  
Tiffany Neumann  
Jim Poling  
Tim Ratsep  
Alex Rittberg  
Qazi Salahuddin  
Paul Will  
Christina Wirtz

**DOJ**

Keith Brady

\*Note information regarding the March 6 meeting is available online at:  
<http://www.awm.delaware.gov/BAC/Pages/BACMeetings.aspx>

**Introductions and Opening Remarks** – Tim Ratsep welcomed members.

**Approval of Dec. 5 Meeting Minutes** – The meeting minutes were unanimously approved.

**Updates for SIRS:** Qazi Salahuddin provided information on new EPA national storm water rulemaking: <http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>. He also mentioned DNREC's newly revised 5101 Sediment and Stormwater Regulations, effective Jan. 1, 2014: <http://regulations.delaware.gov/register/august2013/final/17%20DE%20Reg%20240%2008-01-13.htm>. Other new regulations include the Delaware Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems, effective Jan. 11, 2014: [http://www.dnrec.delaware.gov/wr/Information/GWDInfo/Documents/DelawareFinalOnSiteRegulations\\_01112014.pdf](http://www.dnrec.delaware.gov/wr/Information/GWDInfo/Documents/DelawareFinalOnSiteRegulations_01112014.pdf). Qazi also shared that effective immediately, for all future sampling events under the HSCA program for which the Conceptual Site Model/Work Plan has not yet been approved, DNREC-SIRS requires that electronic data deliverables (EDDs) in the DNREC EQuIS EDD format are obtained from the HSCA-certified laboratory and submitted to [DNREC\\_Equis@state.de.us](mailto:DNREC_Equis@state.de.us), also copying the project officer. Consultants will need to notify the lab in advance of sampling that the DNREC EQuIS EDD is needed. In addition, the x and y

coordinates in Delaware State Plane NAD 83 meters for the sampling locations are also required in a separate Excel spreadsheet in the email with the analytical EDDs.

**Updates for TMS:** Alex Rittberg discussed TMS' new UST removal contract (June 2014), changes to the UST regulations and home heating oil UST removal reimbursement up to \$5,000.

### **Brownfield Subcommittee Report Outs:**

- **Brownfields Finance Subcommittee – Jim Poling (Chair)**

Stephanie Hansen, Dave Kane, Thomas Kovach, Mark Lannan, Melissa Leckie, Jim Poling, Tim Ratsep, Bill Smith and Chris Whallon.

- Jim Poling: All Appropriate Inquiry (AAI) is required under Chapter 91. Prospective owners must do their due diligence.
- Keith Brady: Brownfields Development Agreements (BDAs) must be signed BEFORE the purchase of the property.
- Stephanie Hansen: Developers are not ready to do the FE within 24 mos.
- Melissa Leckie: Last of the EPA Grant/Brownfields Revolving Loan Program funding will be used for the NVF Yorklyn site. Only \$3 million of the \$5 million Brownfields grant funding has been used to date.
- Jim Poling: Resurrecting HSCA Loan Program - please see <http://www.dnrec.delaware.gov/dwhs/sirb/Pages/SIRBLoansGrants.aspx>

- **Regulatory Subcommittee (changes to Chapters 74, 74A, 79 & 91) – Alex Rittberg/Tim Ratsep (Contacts),** Todd Coomes, Clay Greer, Stephanie Hansen, Todd Keyser, Mark Lannan, Melissa Leckie, Lynn Poling, Jim Poling, Qazi Salahuddin, Doug Seavey, Bill Smith, Lori Spagnolo, Bill Stephens and Chris Whallon.

- Marjorie Crofts: The proposed WHS bills are in the Governor's office now.
- Changes to HSCA: direct pay statutory authority; notice on deeds for CNFA determinations; judiciary clause (not liable if only doing financing); and providing a grace period for entering into a BDA.
- Golf Course/Orchard legislation – separate bill. New bill assumes appropriate application of herbicides and pesticides for golf courses or orchards, so the property would not be defined as a Brownfields per se. However, the new perspective purchaser/developer could sign a BDA to receive liability protection for the release. Former owner would not receive a release from liability.
- UST bill: cleanup liability clarification – “proximate cause” shifts burden of proof from DNREC to tank owners and operators. Want strict joint and severable liability for release and cleanup.
- UST and AST bills: lender liability provisions.

Note that TMS and SIRS are both members of the Miss Utility System now.

- **Outreach and Education Subcommittee – Robert Newsome (Chair)**

Walt Bryan, Marianne Cinaglia, Greg DeCowsky, Kate Durant, Guy Kramer, Melissa Leckie, Nora Lober, Betsy Rogers, Bill Stephens, Pat Todd, Mike Vanderslice and Chris Whallon.

- Robert Newsome discussed the new outreach strategy that will focus on lower Delaware and include state parks in spring and summer,

colleges/universities and school districts, (spoke at Lake Forest already). In addition, events such as Dover Days, Firefly, Pumpkin Chunkin' & Coast Days would also be good targets. Will also look at opportunities using social media. Will continue to rotate HAC meetings upstate and downstate. Next HAC meeting will be in Dover at the public library.

- Joanne Haynes: Brownfields in lower Delaware, even the Stockley Center near Georgetown. Gov. Markell recently announced recommendations on expanded uses for the 750-acre campus that support quality of life initiatives, but "hospitals have been dumping on it for years."
- Maria Payan expressed her concerns over the HAC:
  - The HAC needs to do more outreach to help communities instead of just focusing on economic development.
  - Example: the Possum Point community had no help with water testing. Millions of dollars in excess for brownfield grant funding, but no one advocating for groundwater testing in this community. Had to pay privately to initiate the sampling. Then DHSS-DPH collected samples on a weekend in a big hurry.
  - They have yet to receive a letter from the DHSS-DPH stating that it is OK to drink the groundwater. Director Marjorie Crofts will talk to DPH about the letter.

**New Business:** Dotty LeCates asked for the status on the Final Plan of Remedial Action for the Former Pinnacle Site. The Final Plan has been appealed to the Delaware Environmental Appeals Board and the associated hearing scheduled for May 13 in Dover.

Joe Rossi asked if lead paint, asbestos and mold were covered under the Brownfields grant funding. Qazi Salahuddin indicated lead paint and asbestos were covered, as long as they were not the only contaminants at the site. Further, he was checking to see if mold is listed as a hazardous substance. The Sec. of DNREC can declare it hazardous, but has to go through regulations. Tim Ratsep indicated that mold would not be covered until changes have been made to the regulations.

**Next Meeting – The next meeting will be held June 5, 2014 from 9:30-11:30am at the Dover Public Library, 35 Loockerman Plaza, Dover, DE 19901.**